

**Date:** February 16, 2016  
**To:** Thomas J. Bonfield, City Manager  
**Through:** W. Bowman Ferguson, Deputy City Manager  
**From:** Steven W. Hicks, Director, General Services Department

**Subject:** Proposed acquisition of four parcels located at 906, 908, and 910 Angier Avenue and 201 South Elm Street for the Edgemont Park CIP project

### **Executive Summary**

The Department of Parks and Recreation (DPR) proposes for the City to purchase four parcels located at 906, 908, and 910 Angier Avenue and 201 South Elm Street (the Property) for the Edgemont Park CIP project. The City has procured an Option to purchase the Property from Edgemont Community Center, Inc. (ECC), the Property's owner.

Edgemont Park (the Park) is located at 205 South Elm Street, consists of one city-owned parcel (# 111849), and is bordered on two sides by the Property. In 1990, the City leased the Property from ECC to increase the size of the Park and continued to use and maintain the Property as part of the Park with ECC's consent after the lease expired.

City Council approved funding for a much-needed renovation of the Park's playground, which is located on the Property, in the 2015-2016 Capital Improvements Program. When DPR staff approached ECC about entering into a new lease for the Property before beginning renovations, however, ECC requested that the City purchase the Property instead.

Acquisition of the Property will allow the City to double the size of the Park from approximately 0.375 acres to approximately 0.777 acres, thereby permanently providing the community with more open space and a larger playground with new equipment.

Given ECC's status as a non-profit corporation conveying the majority of its property, the proposed transaction is subject to review by the North Carolina Attorney General (the Attorney General) pursuant to N.C.G.S. §55A-12-02(g).

### **Recommendation**

The General Services Department recommends that City Council approve the fee simple acquisition of property located at 906, 908, and 910 Angier Avenue and 201 South Elm Street (parcel numbers 111847, 111846, 111850, and 111848, respectively) from Edgemont Community Center, Inc. for \$30,000.00, subject to the approval of the North Carolina Attorney General pursuant to N.C.G.S. §55A-12-02(g).

### **Background**

The Park is located at 205 South Elm Street and consists of one city-owned parcel approximately 0.375 acres in size. The current shape of both the Park and the Property was created in 1988 by closing several streets and alleys to accommodate construction of Edgemont Elms, a nearby affordable housing development managed by Durham Housing Authority (DHA).

The City leased the Property from ECC in 1990 to increase the size of the Park for the benefit of the neighborhood. When the lease expired, the City continued to maintain and use the Property as part of the Park with ECC's consent.

City Council approved funding for a much-needed renovation of the Park's playground in the 2015-2016 Capital Improvements Program. When DPR staff approached ECC about entering into a new lease for the Property before beginning renovations, however, ECC requested that the City purchase the Property instead.

### **Issues and Analysis**

The majority of the Park is occupied by a walkway, a picnic shelter, and playground equipment. Part of the equipment, however, is encroaching on neighboring Edgemont Elms' land. The City needs to either lease or purchase the Property in order to rectify the encroachment and to expand the size of the playground to better suit the community's needs. ECC no longer wishes to lease the Property and gave the City an Option to Purchase it instead, with the condition that the Property be used as a public park for the next 20 years. DPR's long-held goal has been to acquire the Property to permanently expand the Park for the betterment of the community. Using the Property as a public park for the next 20 years fulfills DPR's goal.

The four playgrounds closest to the Park are Oakwood Park (0.5 miles away), Long Meadow Park (0.6 miles away), Burton Park (0.8 miles away), and Hillside Park (1.1 miles away). Both Burton Park and Hillside Park are located on the other side of the Durham Freeway, which presents an accessibility obstacle in addition to distance. Purchasing the Property to expand the Park and its amenities resolves the need for residents to travel to parks that are farther away.

City staff procured both a Phase 1 Environmental Assessment (EA) and an appraisal of the Property. The EA report noted that, while there had been various industrial uses in the past near the Property, there is no evidence that the Property was contaminated by such uses. The appraised value of the Property is \$30,000.00.

The City's purchase the Property, however, is subject to the Attorney General's approval. ECC is a non-profit corporation, the proposed sale to the City would dispose of the majority of ECC's property and would not be in the usual and regular course of ECC's activities. Therefore, the proposed sale is subject to the provisions set forth in N.C.G.S. §55A-12-02(g).

That section states, in part, "A charitable or religious corporation shall give written notice to the Attorney General 30 days before it sells...all, or a majority of, its property if the transaction is not in the usual and regular course of its activities...." During the 30-day period, the Attorney General reviews the proposed transaction and may extend the review period, if necessary. Until the review period is complete, "the transaction may not be finalized."

ECC submitted the necessary information to the Attorney General's office, and the review process is underway. The most recent communication between the City Attorney's Office and the Attorney General's Office regarding approval of ECC's proposed sale to the City was positive in nature but did not include the Attorney General's decision. Therefore, City Council's approval of the proposed purchase of the Property is subject to the outcome of the Attorney General's review.

### **Alternatives**

City Council could decide not to approve purchasing the Property pursuant to the terms contained in the attached Option to Purchase and could instead direct staff to renegotiate with ECC. This alternative is not recommended because ECC will not sell the Property for less than the appraised value of \$30,000.00.

City Council could decide to not approve purchasing the Property, leaving the Park at its current 0.375-acre size. This alternative is not recommended because the Park's size cannot accommodate the renovations for which City Council approved CIP funding. While it might be possible to negotiate an agreement with DHA to upgrade the playground equipment in its current shared location, DHA historically has not been able to welcome the public onto its housing development properties because of security concerns.

Additionally, ECC has indicated that if the City declines to purchase the Property, it will search for another buyer.

#### **Financial Impact**

The following table details the estimated City expenses related to the acquisition of the Property. Funds to purchase the Property are available in DPR account 3000H000-730100-CH195.

Purchase price	\$30,000.00
Closing costs	\$2,500.00
<b>Total expenses</b>	<b>\$32,500.00</b>

#### **SDBE Summary**

This item does not require review by the Equal Opportunity/Equity Assurance Department.

#### **Attachments**

Option to Purchase

Aerial view of the Park and Property's locations